

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)
)
)
v.) Criminal No. 00-66
)
OLITUNJI TINSLEY,)
a/k/a Tunji)

GOVERNMENT'S RENEWED MOTION PURSUANT TO RULE 35(b)
OF THE FEDERAL RULES OF CRIMINAL PROCEDURE

AND NOW, comes the United States of America, by and through Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Troy Rivetti, Assistant United States Attorney for said district, and respectfully files this renewed motion pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure, stating in support thereof the following:

1. On June 25, 2001, the government filed a motion pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure on behalf of defendant Olitunji Tinsley.

2. In that motion, the government explained the charges that had been pending against Tinsley; his guilty plea pursuant to a written plea agreement; his agreement to assist law enforcement in investigating violations of the federal drug laws known to him; his sentence on June 22, 2000 to 168 months imprisonment; and defendant Tinsley's cooperation to date. See Docket No. 40 (Government's Motion Pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure).

3. At the time of the filing of the government's motion, Tinsley's cooperation was not yet complete, and the government requested that the Court permit the motion to be filed under seal, and also that the Court take the motion under advisement for a period of six months, unless that time period was further extended by motion of the government and Order of Court.

4. On June 25, 2001, this Court granted the government's requests, and the motion was taken under advisement.

5. Since the filing of the government's original motion, defendant Tinsley has continued with his cooperation, which was somewhat protracted and now is complete.

6. With respect to the outstanding investigations addressed in the government's original motion, the government has the following supplemental information for the Court:

a) Oscar Rodriguez - Oscar Rodriguez remains a fugitive. Tinsley remains willing to testify as a government witness against Rodriguez in the event that he is apprehended.

b) Aaron Verse - The United States was able to bring a successful prosecution against Aaron Verse, who was charged at Criminal No. 02-30 (W.D. Pa.) with conspiracy to distribute and possess with intent to distribute 500 grams or more of cocaine, from June 1997 until December 1998, in violation of Title 21, United States Code, Section 846. Verse pleaded guilty to that charged and was sentenced to 48 months incarceration. The

government believes in good faith that the decision by Verse to plead guilty was based in large part upon the prospect of Tinsley's truthful, credible testimony.

c) Ellis Harris, a/k/a "Pete Rock" - The United States likewise was able to bring a successful prosecution against Ellis Harris, who was charged at Criminal No. 01-172 (W.D. Pa.) with conspiracy to distribute 500 grams or more of cocaine, a Schedule II controlled substance, in violation of 21 U.S.C. § 846. Harris pleaded guilty to that charged and was sentenced to 188 months incarceration. The government believes in good faith that the decision by Harris to plead guilty was based in large part upon the prospect of Tinsley's truthful, credible testimony.

7. In addition to the investigations addressed in the government's original motion, defendant Tinsley also provided assistance in the government's long-term investigation of the Terrance Cole cocaine/crack cocaine organization based in the Hazelwood section of Pittsburgh. According to information provided by Tinsley, which was corroborated by other credible information known to the government, Terrance Cole, his closest associate Thomas Gilliam, and a number of other individuals operated a long-term, extremely large-scale powder cocaine and crack cocaine distribution conspiracy in Western Pennsylvania. The investigation of Cole took several years, eventually culminating in his indictment on May 10, 2004, at Criminal No. 04-109 (W.D. Pa.).

Cole proceeded to trial, the first of which ended in a mistrial as a result of a dead-locked jury. On August 30, 2005, following a second jury trial, Cole was convicted. He awaits his sentencing hearing.

8. Although the government elected not to call Tinsley as a government witness in the Cole trials, the information provided by him was extremely helpful to the government's long-term investigation, and Tinsley's cooperation led to other significant evidence that was utilized at the trial.

9. The amended Rule 35(b) of the Federal Rules of Criminal Procedure provides in relevant part as follows:

Upon the government's motion made within one year of sentencing, the court may reduce a sentence if the defendant, after sentencing, provided substantial assistance in investigating or prosecuting another person.

....

Upon the government's motion made more than one year after sentencing, the court may reduce a sentence if the defendant's substantial assistance involved ... information provided by the defendant to the government within one year of sentencing, but which did not become useful to the government until more than one year after sentencing.

When acting under Rule 35(b), the court may reduce the sentence to a level below the minimum sentence established by statute.

Fed. R. Crim. P. 35(b)(1)(A), (b)(2)(B) & (b)(4).

10. It is submitted that the foregoing provides the Court with a basis upon which to depart from the applicable

Sentencing Guidelines range and the statutory mandatory minimum. Wherefore, the government asks the Court to consider this renewed motion, pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure. A proposed Order is attached.

Respectfully submitted,

MARY BETH BUCHANAN
United States Attorney

By: s/Troy Rivetti
Troy Rivetti
Assistant U.S. Attorney
U.S. Post Office & Courthouse
Suite 4000
Pittsburgh, PA 15219
(412) 644-3500 (Phone)
(412) 644-2645 (Fax)
Troy.Rivetti@usdoj.gov
PA ID No. 56816

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within pleading was served by fax and U.S. Mail to and upon the following:

Michael D. Foglia, Esquire
810 Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

U.S. Probation Office
P.O. Box 1468
Pittsburgh, PA 15230

s/Troy Rivetti
Troy Rivetti
Assistant U.S. Attorney
U.S. Post Office & Courthouse
Suite 4000
Pittsburgh, PA 15219
(412) 644-3500 (Phone)
(412) 644-2645 (Fax)
Troy.Rivetti@usdoj.gov
PA ID No. 56816

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